

### **REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action. Favorable reconsideration of the application is respectfully requested in view of the comments and amendments made herein.

Claim 16 was objected to for containing informalities and has been amended herein in accordance with the Examiner's suggestion. Withdrawal of this objection is requested.

Claims 1 and 5 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1 and 5 have been amended herein to cure any indefiniteness problems. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1-4, 6, 7, 14, 15, 23, 24 and 27 were rejected under 35 U.S.C. 102(b) as being anticipated by Banter et al. (U.S. Patent No. 6,512,834). Traversal of this rejection is made for at least the following reasons. Banter fails to disclose an opening arranged at the outside of the hearing device whereby an outer diameter of a ring is nearly equivalent with an inner diameter of the opening, as required by independent claims 1 and 23. The Examiner relies on mounting locations 12 and 13 of Banter as being equivalent to the claimed opening; and on protective cover assembly 14 as being equivalent to the claimed ring. However, in Banter, neither of the mounting locations 12 and 13 is arranged on an outside of the cellular phone housing, as required by the claims of the present application. Rather, as shown and described with respect to Fig. 2 of Banter, the openings are provided on an internal portion of the cell phone housing. If the Examiner contends that the small openings or apertures 11 are equivalent to claimed opening, then Banter fails to teach that the protective cover assembly includes an outer diameter that is nearly equivalent to the opening.

Referring to claim 6, Banter does not disclose a one-piece ring/rack. Referring to col. 7, lines 33–42, there are two ways to interpret Banter: 1) a membrane and a ring (two pieces) or 2) a membrane and an adhesive (no ring). Referring to col. 9, lines 21–33, Banter describes a membrane molded in a ring (two pieces).

Because Banter fails to teach each and every element arranged as required by the present claims, Banter cannot anticipate such claims. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 8, 9, 12 and 16–19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Banter et al. (U.S. Patent No. 6,512,834) in view of Weiss et al. (U.S. Patent No. 4,972,488) or Gunnensen et al. (U.S. Patent No. 6,795,592). Traversal of this rejection is made for at least the following reasons. Claims 8, 9, 12 and 16–19 depend from claim 1, which is believed to be allowable over Banter for at least the aforementioned reasons. Neither Weiss nor Gunnensen make up for the aforementioned deficiencies of Banter. Namely, neither Weiss nor Gunnensen disclose, teach, or suggest an opening provided in an outside of a hearing device and a ring having an outer diameter that is substantially equivalent to an inner diameter of the opening, wherein the ring is at least partly insertable in the opening. Thus, the combination of Banter, Weiss, and Gunnensen fails to teach or suggest each and every limitation set forth in claim 1 and claims 8, 9, 12 and 16–19, which depend therefrom. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 20–22, 25 and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Banter et al. (U.S. Patent No. 6,512,834). Traversal of this rejection is made for at least the following reasons. Claims 20–22, 25 and 26 depend from claims 1 and 23, respectively, which are

believed to be allowable over Banter for at least the aforementioned reasons. Accordingly, withdrawal of this rejection is respectfully requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any fees required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. 36441.

Respectfully submitted,  
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Date: March 9, 2007